

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

**CONNIE TILLEY and KERMIT TILLEY Individually
and as Legal Guardians and Next Friends of
S.D.A., an Infant,**

Plaintiffs,

v.

**Civil Action No. 2:08-CV-0061
Judge John T. Copenhaver, Jr.**

**WILLIAMSON MEMORIAL HOSPITAL, LLC
d/b/a WILLIAMSON MEMORIAL HOSPITAL;
LEO P. PAJARILLO, M.D., and
PATTI JO MARCUM, M.D.,**

Defendants.

**ORDER APPROVING SETTLEMENT AND
DISTRIBUTION OF PROCEEDS**

This day came the Petitioners, Connie Tilley and Kermit Tilley, individually and as legal guardians and next friends of Shannon Dalton Adkins, an infant (hereinafter collectively referred to as "Petitioners"), by counsel, Goodwin & Goodwin, LLP and The H. Truman Chafin Law Firm, PLLC; and came William W. Pepper, Esquire, heretofore appointed as guardian ad litem for Shannon Dalton Adkins, an infant; and came Dr. Leo P. Pajarillo, by counsel, Flaherty, Sensabaugh & Bonasso PLLC; and came Dr. Patti Jo Marcum, by counsel, Farrell, Farrell & Farrell; and came Williamson Memorial Hospital, LLC, by counsel, Mundy & Nelson; whereupon the said Petitioners presented to the Court their Amended Petition for Court Approval of Settlement showing that as legal guardians and next friends of Shannon Dalton Adkins they have negotiated a tentative settlement as more fully described below, payable upon the approval of the settlement herein. Said tentative settlement is to be accepted in full

satisfaction for the injuries and damages sustained by Shannon Dalton Adkins. The Petitioners did further present to the Court the nature and character of the injuries and damages sustained by Shannon Dalton Adkins, an infant, and the facts relied upon by Petitioners in negotiating the aforesaid settlement and moved the Court to approve said settlement upon stated terms and conditions.

Thereupon, the said William W. Pepper, guardian ad litem, in person, presented to the Court his Answer as such guardian ad litem, in writing, duly verified, which was heretofore ORDERED filed.

And the Court did find that Dr Leo P. Pajarillo, Dr. Patti Jo Marcum and Williamson Memorial Hospital, LLC have offered to pay to Petitioners, the sum of \$1,100,000.00 upon the approval by the Court of this settlement.

And the Court proceeded to hear all the evidence presented in support of said Amended Petition, at the conclusion of which said Petitioners and said guardian ad litem moved the Court to grant the prayer of said Amended Petition on the grounds that same is fair and reasonable and will be in and for the best interest of Shannon Dalton Adkins, an infant.

And the Court did find that the West Virginia and Kentucky Medicaid liens of \$279.69 and \$18,697.30, respectively, which were identified in the Amended Petition, should be satisfied with the expenditure of settlement proceeds.

And the Court did find the forty percent contingency fee of Goodwin & Goodwin, LLP and The H. Truman Chafin Law Firm, PLLC, counsel for Petitioner, which resulted in \$432,409.20 in total attorneys fees, to be fair and reasonable.

And the Court did find the litigation expenses of Goodwin & Goodwin, LLP and The H. Truman Chafin Law Firm, PLLC, counsel for Petitioner, totaling \$97,046.34, to be fair and reasonable.

And it appearing that the facts and allegations in the Amended Petition are true; that the prayer of said Amended Petition is proper; that there is no objection thereto; and that the granting thereof will promote the best interests of Shannon Dalton Adkins, an infant, it is, therefore, ORDERED, ADJUDGED AND DECREED that said Petitioners as legal guardians and next friends of Shannon Dalton Adkins, an infant, are hereby authorized to consummate said tentative settlement on the aforementioned basis, and to receive from Dr. Leo P. Pajarillo, Dr. Patti Jo Marcum and Williamson Memorial Hospital, LLC, the aforementioned settlement amount of \$1,100,000.00.

The Court hereby ORDERS said Petitioners to execute and deliver to Dr. Leo P. Pajarillo, Dr. Patti Jo Marcum and Williamson Memorial Hospital, LLC, and their agents and assigns, proper and full releases therefore.

The Court hereby ORDERS Dr. Leo P. Pajarillo, Dr. Patti Jo Marcum and Williamson Memorial Hospital, LLC to pay the settlement proceeds to Plaintiffs' counsel, The H. Truman Chafin Law Firm, PLLC, to be held in said counsel's trust account for subsequent disbursement as set forth herein.

The Court hereby ORDERS that, before disbursement of any of the settlement proceeds, Plaintiff's counsel shall first issue from the settlement proceeds a payment of \$279.69 directly to DHHR/HMS Tort Recovery Unit to satisfy the aforementioned West Virginia Medicaid lien and a payment of \$18,697.30 directly to the Kentucky State Treasurer to satisfy the Kentucky Medicaid lien.

Having found the \$432,409.20 in attorneys fees of Goodwin & Goodwin, LLP and The H. Truman Chafin Law Firm, PLLC, counsel for Petitioner, to be fair and reasonable, this Court ORDERS that said attorneys fees be paid from the settlement proceeds held in Plaintiffs' counsel's trust account.

Having found the \$97,046.34 in litigation expenses of Goodwin & Goodwin, LLP and The H. Truman Chafin Law Firm, PLLC, counsel for Petitioner, to be fair and reasonable, this Court ORDERS that said expenses be paid from the settlement proceeds held in Plaintiffs' counsel's trust account.

Whereupon, it appearing to the Court that it is in the best interest of Shannon Dalton Adkins, an infant, to provide the maximum benefits to him without threatening his eligibility for Medicaid or other public programs, it is hereby ORDERED, ADJUDGED, and DECREED that the Shannon Dalton Adkins Special Needs Trust – 2009 (hereinafter the "Trust") is expressly established by this Court in accordance with the provisions of 42 U.S.C. § 1396p(d)(4)(A) and it is hereby ORDERED that a signed copy of the Trust be attached to this Order as Exhibit A and made a part hereof by reference. It is further ORDERED, ADJUDGED, and DECREED that the attorneys' fees and other expenses incurred in the preparation of the Trust shall be paid from the Trust as an expense of administration.

Plaintiffs' counsel is hereby ORDERED to pay into the Trust the \$551,567.47 in settlement proceeds remaining after payment of the aforementioned Medicaid liens, attorneys fees, and litigation expenses.

And it further appearing to the Court that the said legal guardian ad litem, having faithfully performed all duties and obligations as required of him pursuant to the Order entered by the Court on November 23, 2009, is entitled to compensation for performance of said duties and the Court hereby ORDERS that the guardian ad litem be paid the sum of \$3,100.00 for his services rendered in this matter.

The court hereby ORDERS Defendants Dr. Leo P. Pajarillo, Dr. Patti Jo Marcum and Williamson Memorial Hospital, LLC to pay the guardian ad litem fee of \$3,100.00.

And it further appearing to the Court that there being nothing further to be done in this cause, the same is hereby ORDERED dismissed, with prejudice.

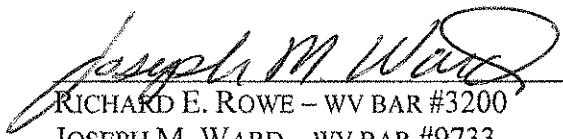
The Clerk is directed to send a certified copy of this Order to counsel of record.

All of which is accordingly so ORDERED, ADJUDGED AND DECREED.

Dated this _____ day of _____, 2009.

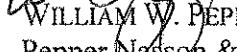
HONORABLE JOHN T COPENHAVER, Judge
United States District Court for the Southern
District of West Virginia

Prepared By:

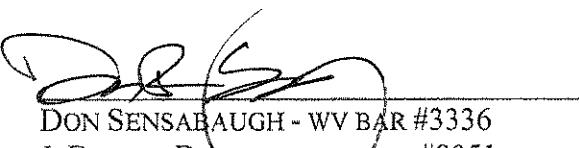


RICHARD E. ROWE – WV BAR #3200
JOSEPH M. WARD – WV BAR #9733
GOODWIN & GOODWIN, LLP
300 Summers Street, Suite 1500
Charleston, WV 25301
(304) 346-7000
Counsel for Petitioner

Approved By:


WILLIAM W. PEPPER – WV BAR #2857
Pepper Nasson & Hayes
8 Hale Street
Charleston, WV 25301-2806
Guardian ad Litem

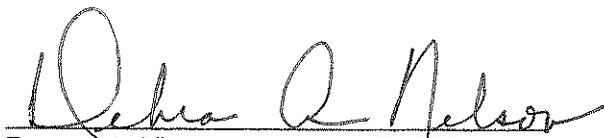
Approved By:


DON SENSABAUGH - WV BAR #3336
J. DUSTIN DILLARD - WV BAR #9051
FLAHERTY SENSABAUGH & BONASSO PLLC

200 Capitol Street
Post Office Box 3843
Charleston, West Virginia 25338-3843
Counsel for Defendant Leo J. Pajarillo, M.D.



TAMELA J. WHITE - WV BAR #6392
ALLISON N. CARROLL - WV BAR #10294
FARRELL FARRELL & FARRELL
Post Office Box 6457
Huntington, West Virginia 25772
Counsel for Defendant Patti Jo Marcum, M.D.



DEBRA A. NELSON - WV BAR #6644
MUNDY & NELSON
Post Office Box 2986
Huntington, West Virginia 25728
Counsel for Defendant Williamson Memorial Hospital, LLC